

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

State of Punjab

APPELLANT

VERSUS

Mastan Singh

RESPONDENT

CORAM : HON'BLE MR.JUSTICE MEHTAB S.GILL
HON'BLE MR.JUSTICE BALDEV SINGH

Present:- Mr.S.S.Randhawa, Senior D.A.G. Punjab and
Shri Ramandeep Sandhu, D.A.G. Punjab for the appellant.

Mr.Surinder Singh Siao, Advocate for the respondent.

MEHTAB S.GILL, J.

This is an appeal filed by the State against the acquittal of Mastan Singh by the learned Sessions Judge, Jalandhar vide his judgment dated 23.4.1997.

The prosecution case is that Sohan Singh had two brothers, one of them Mohinder Singh was a broker in the selling and buying of cattle. Accused/respondent Mastan Singh was also in the business of cattle. Mohinder

Singh had sold some cattle to Mastan Singh on credit and he owed some money to Mohinder Singh. On 28.1.1996 at 8.30 p.m. Sohan Singh and Mohinder Singh went to accused Mastan Singh at his tubewell to ask for the payment. Mastan Singh took offence to it and he picked up a fight with Mohinder Singh. Mastan Singh then picked up a Sota and gave a blow on the left leg of Mohinder Singh. Mohinder Singh fell down and Mastan Singh gave more Sota blows. Thereafter Mastan Singh picked up a Kahi and gave Kahi blows on the head and legs of Mohinder Singh. Sohan Singh raised an alarm. Mastan Singh ran away with the Kahi. Sohan Singh went to Ajmer Singh, Member Panchayat and informed him about the occurrence. As it was night time, out of fear Sohan Singh did not go to the spot, but on the next day he along with Ajmer Singh went to the place of occurrence. They saw drag marks and after following the drag marks, they found the body of Mohinder Singh under the heap of Harhar crop. Sohan Singh was going to Police Post Jandiala, that he met Sadhu Singh ASI at Bus Stand Jandiala where he recorded his statement Ex.PE. On the basis of this formal F.I.R. Ex.PE/2 was recorded.

The prosecution to prove its case brought into the witness-box Dr.Ram Parshad PW-1, ASI Sadhu Singh PW-2, Sohan Singh PW-3, Gian Singh PW-4, Ajmer Singh PW-5 and Inspector Harbans Singh PW-6.

Learned counsel for the appellant has argued, that the testimony of Sohan Singh PW-3 and Ajmer Singh PW-5 corroborates each other inter se. They have supported the case of the prosecution and have spelt out the manner in which the occurrence had taken place. Accused Mastan Singh made an extra-judicial

confession before Gian Singh PW-4 wherein he felt sorry for committing the murder of Mohinder Singh. As per disclosure statement Ex.PJ, the weapon of offence was recovered. The Chemical Examiner's report Ex.PR and Serologist's report Ex.PS have also supported the case of the prosecution.

Learned counsel for the respondent/accused has attacked the case of the prosecution on several counts. He has stated that there is an unexplained delay in lodging of the F.I.R. and the special report reaching the Illaqa Magistrate. The conduct of the Investigating Officer was not impartial, the investigation of the case was done to help the complainant party. The extra-judicial confession made to Gian Singh PW-4 does not inspire confidence. The motive for the commission of offence was very weak.

We have heard the learned counsel for the parties and perused the record with their assistance.

The statement of Sohan Singh Ex.PE was recorded at 11 a.m. on 29.1.1996. Entry in the D.D.R. shows that it was completed at 12.30 p.m. Special report reached the Illaqa Magistrate at 7.15 p.m. Affidavit Ex.PM of Kewal Krishan does not explain anything regarding the delay. The distance between Police Station Nur Mahal and Jalandhar is 26 kms. There is an unexplained delay of 6-1/2 hours from the time of recording of the statement Ex.PE and the occurrence which took place on 28.1.1999 at 8.30 p.m. Sohan Singh PW-3 is the brother of deceased and he had witnessed the occurrence. He had gone along with the deceased to the tubewell of accused Mastan Singh where Mastan Singh resided. Occurrence had taken place in front of Sohan Singh PW-3 at 8.30 p.m.

Apart from informing Member Panchayat Ajmer Singh PW-5, he did not do any action to report the matter to the police. He could have easily hired a car or taken some other vehicle and reported the matter to the police. Sohan Singh in his cross-examination has stated that he did not go the Police Post Jandiala or to Police Station Nur Mahal to lodge the report, but had gone to sleep at his house, after the occurrence. It is not believable that Sohan Singh whose brother had been murdered, could have gone to sleep in the night when the body of his brother was lying at the tubewell of Mastan Singh. He has admitted that he has got a telephone connection at his residence and also that there are many telephones in the village. He could have easily reported the matter to the police by telephone. The distance between the place of occurrence and Police Post Jandiala was about 2 kms. The learned trial Court has rightly held that the delay in lodging of the F.I.R. is fatal to the case.

Statements of both the eye-witnesses also do not corroborate each other inter se, nor do they get corroboration from the medical evidence.

We do not find any infirmity in the judgment of the learned trial Court.

Dismissed.

(MEHTAB S.GILL)
JUDGE

(BALDEV SINGH)
JUDGE

October 31, 2006
GD

WHETHER TO BE REFERRED TO REPORTER? YES/NO

